IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 278 of 2005

Between:

L. Rajunaik, S/o. Hanumanaik,
R/o. Odithala Village, Chityal Mandal, Warangal District.

..... PETITIONER

AND

1 The Secretary, Panchayat Raj & Rural Development,
Government of Andhra Pradesh, Secretariat, Hyderabad.
2 The Commissioner, Panchayat Raj Department, Hyderabad.
3 District Panchayat Officer, Warangal District, Warangal.
4 The District Collector, Warangal District, Warangal.
5 The Mandal Parishad Development Officer, Chityal Mandal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction, or writ or writs more particularly one in the nature of Writ of Mandamus declaring the action of the respondent No.3 in passing the proceedings No.1746/2003/A-2, dated 17-04-2003 by accepting the resignation of the petitioner to the post of Sarpanch, Odthala Grampanchayat as well as the consequent G.O.Rt.No.1980, dated 20-12-2004 of the Respondent No.1 as illegal, arbitrary, against the principles of natural justice and also against the provisions of constitution of India, consequently permitting the petitioner to continue in the post of Sarpanch, Odthala Grampanchayat.

Counsel for the Petitioner: MR.A.SRINIVASULU

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court at the admission stage made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.278 OF 2005

ORDER :

This writ petition is filed questioning the order passed by the third respondent dated 17-04-2003 whereunder the resignation tendered by the petitioner was accepted with effect from 17-04-2003 as well as the order of the first respondent vide G.O.Rt.No.1980, dated 20-12-2004 confirming the order dated 17-04-2003 on appeal.

The petitioner was elected as Sarpanch of Odithala Gram Panchayat, Chintyall Mandal, Warangal District.

The petitioner states that the impugned order dated 17-04-2003 was passed by the third respondent purported to be on the basis of the resignation tendered by the petitioner by letter dated 16-04-2003. It is alleged that as a mater of fact he has never given such letter personally to the third respondent or to the fifth respondent at any point of time.

It is further contended that since the impugned order dated 17-04-2003 was passed, is based on the alleged resignation letter made by the petitioner without conducting any enquiry as contemplated under the statutory rules made in G.O.Ms.No217, dated 31-3-1995, the same is illegal and unsustainable. Aggrieved by the said order, he preferred an Appeal before the first respondent. The first respondent, though initially kept the order dated 17-04-2003 under abeyance, passed final orders on 20-12-2004 confirming the order of the third respondent dated 17-04-2003. The petitioner contends that the said order was passed without assigning any reasons and without notice to him and therefore on that ground alone it is liable to be set aside. Hence, this writ petition.

On behalf of the respondents, though no counter-affidavit is filed, the learned Government Pleader appearing for the respondents placed before this Court the relevant record.

As can be seen from the material on record, the impugned order dated 17-04-2003 was passed by the third respondent, the District Panchayat Officer accepting the resignation tendered by the petitioner. In this writ petition, the petitioner does not dispute the fact that such resignation letter was given to the third respondent, but states that it was made in view of the fraud played by some of the members of the rival groups in the village who have wrongly advised him. Thus, it is clear that there is no dispute as to the factum of tendering resignation. The petitioner himself confirms the same, but alleges that was obtained by rival groups by playing fraud.

It is relevant to note that in the appeal filed before the first respondent, he has stated that due to serious illness he was not in a position to discharge the duties of the Sarpanch and therefore, he tendered resignation under the letter dated 16-04-2003. In the Appeal preferred before the first respondent, the petitioner never stated that the resignation letter was obtained from him by the members belonging to the rival groups by playing fraud on him, as stated in the affidavit filed in this writ petition. Obviously, the plea of the petitioner that he gave resignation on account of fraud played by rival groups is only an after-thought, and does not appear to be credible and not at all convincing.

In the circumstances, I do not find any substance in the contentions of the petitioner. The further contention of the petitioner that the third respondent has failed to conduct the necessary enquiry as contemplated under the statutory rules made under G.O.Ms.No.217, dated 31-03-1995 is also without any substance since the petitioner himself confirms the resignation letter. Even in the Appeal filed before the 1st respondent on 2-5-2003, he pleaded that though he has resigned on the ground of ill-health since he has recovered he may be permitted to continue in the office. Hence, even assuming that the third respondent has failed to conduct the enquiry as provided under the Rules made under G.O.Ms.No.217, dated 31-03-1995, the

impugned order cannot be said to be vitiated.

The Writ Petition is without any substance and the same is accordingly dismissed. No costs.

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17th February, 2005.

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To

1 The Secretary, Panchayat Raj & Rural Development,
Government of Andhra Pradesh, Secretariat, Hyderabad.
2 The Commissioner, Panchayat Raj Department, Hyderabad.
3 District Panchayat Officer, Warangal District, Warangal.
4 The District Collector, Warangal District, Warangal.
5 The Mandal Parishad Development Officer, Chityal Mandal, Warangal District.

6 Two CCs to the Government Pleader for Panchayatraj and Rural Development, High Court of A.P., Hyderabad.(O.U.T.)

7 Two CD copies.